

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

GLORIA GLAZIER,)	
)	
)	1:14-CV-106
v.)	
)	ACTION FOR DAMAGES
STUART FOX,)	
)	
)	
)	

**PLAINTIFF GLORIA GLAZIER’S MEMORANDUM OF LAW IN SUPPORT OF
OFFERING EVIDENCE REGARDING HER ALLEGED DISABILITY**

Glazier will offer evidence of her disability through her treating physician, Dr. Linda Jackson, who is an orthopedic specialist.

Gloria Glazier suffered a torn rotator cuff and torn labrum in her left shoulder when she was groped and assaulted by Stuart Fox. In July 2014, Glazier underwent surgery in Kansas City to repair the injuries to her left shoulder. When Glazier returned to St. Croix, she saw Dr. Jackson, who provided follow-up care and continued the treatment of Glazier’s shoulder injury.

In the course of treating Glazier, Dr. Jackson reviewed Glazier’s medical history and surgery records. Dr. Jackson will testify about the treatment she rendered to Glazier, the extent and nature of the shoulder injury, and Glazier’s prognosis. Dr. Jackson will also give opinions about the cause of Glazier’s shoulder injury, Glazier’s functional limitations, and her level of pain.

A treating physician may testify as a non-retained expert witness -- and therefore need not provide an expert report -- if the testimony is confined to “facts disclosed during care and treatment of the patient.” *Brown v. Best Foods, A Division of CPC Intern., Inc.*, 169 F.R.D. 385, 389 (N.D.Ala. 1996); *see also Fielden v. CSX Transp., Inc.*, 482 F.3d 866, 871 (6th Cir. 2007) (“[A] report is not required when a treating physician

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testifies within a permissive core on issues pertaining to treatment, based on what he or she learned through actual treatment and from the plaintiff's records up to and including that treatment."); *Martin v. CSX Transportation, Inc.*, 215 F.R.D. 554, 556 (C.D. Ind. 2003) ("The majority of courts permit physicians to present their opinions formulated during the course of treating a patient.").

In addition to discussing a specific diagnosis, a treating physician may opine as to the causation of a plaintiff's injuries and a plaintiff's prognosis as long as the doctor formed those opinions "based on the care-provider's personal knowledge and observations obtained during the course of care and treatment." *Garcia v. City of Springfield Police Dep't*, 230 F.R.D. 247, 249 (D.Mass. 2005).

Here, Dr. Jackson will give opinions about the cause and nature of Glazier's disability formed during the course of treatment. Dr. Jackson's testimony and opinions are therefore admissible to prove Glazier's shoulder disability.

COLIANNI & COLIANNI, LLC
Attorneys for Gloria Glazier

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By: /s/Vincent Colianni, II
Vincent A. Colianni
Vincent Colianni, II
1138 King Street
Christiansted, VI 00820
Telephone: (340) 719-1766
Facsimile: (340) 719-1770
mailbox@colianni.com

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of January, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Andrew C. Simpson, Esq.
Andrew C. Simpson, P.C.
2191 Church Street, Suite 5
Christiansted, VI 00820
asimpson@coralbrief.com

/s/Vincent Colianni, II

Vincent Colianni, II
Vincent A. Colianni
1138 King Street
Christiansted, St. Croix
U.S. Virgin Islands 00820
Telephone: (340) 719-1766
Fax: (340) 719-1770